



AF/zw  
\$

Patent Docket No. 080398.P158

Patent

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of: ) Examiner: Lonsberry, Hunter B.  
Proehl, et al. ) Art Unit: 2611  
Serial No. 09/218,119 )  
Filed: December 21, 1998 )  
For: METHOD AND APPRATUS )  
FOR NOTIFICATION ON A )  
BROADCAST DEVICE )

Mail Stop Appeal Brief- Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**APPEAL BRIEF UNDER 37 C.F.R. § 41.37(a)**

This is an appeal to the Board of Patent Appeals and Interferences from the decision of the Examiner of Group 2611, dated August 10, 2004, which finally rejected Claims 11-18, 21-32, 36-37, 43-52 and 57-60 in the above-identified application. This Appeal Brief is hereby submitted pursuant to 37 C.F.R. § 41.37(a).

**FIRST CLASS CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to Mail Stop Appeal Brief- Patents, Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450 on 1/10/05

Date of Deposit

Cheri Clinkenbeard

Name of Person Mailing Correspondence

CClinkenbeard

Signature

1/10/05

Date

### **I. REAL PARTY IN INTEREST**

The real parties in interest are the assignees of the full interest in the invention, Sony Corporation, 7-35 Kitashinagawa, 6-Chome, Shinagawa-Ku, Tokyo, Japan, and Sony Electronics, Inc., 1 Sony Drive, Park Ridge, New Jersey 07656.

### **II. RELATED APPEALS AND INTERFERENCES**

To the best of Appellant's knowledge, there are no appeals or interferences related to the present appeal that will directly affect, be directly affected by, or have a bearing on the Board's decision in the instant appeal.

### **III. STATUS OF THE CLAIMS**

Claims 11-18, 21-32, 36-37, 43-52 and 57-60 are pending in the application and were finally rejected in an Office Action mailed August 10, 2004. Claims 11-18, 21-32, 36-37, 43-52 and 57-60 are the subject of this appeal. A copy of Claims 11-18, 21-32, 36-37, 43-52 and 57-60 as they stand on appeal are set forth in Appendix A.

### **IV. STATUS OF AMENDMENTS**

No amendments have been submitted subsequent to the Final Office Action mailed August 10, 2004.

### **V. SUMMARY OF CLAIMED SUBJECT MATTER**

Appellant's invention as claimed in claims 11-18, 21-32, 36-37, 43-52 and 57-60 is directed to notifying a viewer of a program. The claimed invention allows the viewer to designate programs that he/she is interested in at the time the program is advertised. A menu superimposed over the program advertisement asks the user if he/she wishes to be reminded of the program when it occurs. If an interest signal is received, the program information is retrieved and an entry is put in the system calendar to remind the user of the broadcast of the program. When the program is about to air, a notification reminds the viewer of the broadcast. The viewer can then select the program for viewing (Specification, page 11, line 3- page 12, line 12; Figure 6; Figure 7).

Independent claim 11 claims a method to alert the viewer of a program. Independent claim 21 claims the invention as an apparatus local to a viewer. Independent claim 36 is a computer readable medium claim corresponding to independent claim 11.

## **VI. GROUNDS OF REJECTIONS TO BE REVIEWED ON APPEAL**

- A. Whether Claims 11-18, 21-32, 36, 37, 43-48, 50-52 and 58-60 are patentable under 35 U.S.C. § 103(a) over U.S. Patent 5,699,107 to Lawler et al. ("Lawler") in view of U.S. Patent 5,659,653 to Diehl et al. ("Diehl"), and U.S. Patent 5,859,662 to Cragun et al. ("Cragun").
- B. Whether Claims 49 and 57 are patentable under 35 U.S.C. § 103(a) over the combination of Lawler, Diehl and Cragun in further view of U.S. Patent 5,990,927 to Hendricks ("Hendricks").

## **VII. ARGUMENT**

- A. Claims 11-18, 21-32, 36, 37, 43-48, 50-52 and 58-60 are patentable under 35 U.S.C. § 103(a) over Lawler in view of Diehl and Cragun.

Claims 11-18, 21-32, 36, 37, 43-48, 50-52 and 58-60 stand or fall together. Claim 11 is the representative claim.

Lawler discloses scheduling a reminder to notify a viewer of the broadcast of a program previously selected by the user from an electronic program guide (EPG). The EPG and the reminder are generated remotely from the viewer.

Diehl discloses a system that extracts information from a broadcast signal to set a VCR to record a program when a user presses a "learn" button during an advertisement for the program. The advertisement, broadcast signal and information are generated remotely from the viewer.

Cragun discloses a system local to a viewer that searches text in a broadcast signal for keywords or phrases input by a user. In an automatic scan mode, the system saves a corresponding segment of the broadcast program for later use by the viewer, but does not notify the user that a matching segment has been found. Instead, the user accesses the list of saved segments when manually activating the system. In a manual search/edit mode,

Cragun's system searches the previously-saved program and notifies the viewer when it finds a matching segment.

Appellant submits that there is no suggestion or motivation for the Examiner's combination of Lawler, Diehl and Cragun. The Examiner has asserted that it would have been obvious to modify the reminder system of Lawler to issue a record command after viewing an advertisement for an upcoming program, as in Diehl. However, the Examiner's combination would render the references unsatisfactory for their intended purpose.

Lawler discloses that a user sets a reminder through an illustrated program guide interface by selecting a Remind button within a future program options menu. Lawler does not teach or suggest any functionality for setting a reminder outside the context of the program guide. Modifying Lawler's reminder system to operate during a broadcast of an advertisement would render Lawler's system unsatisfactory for its intended purpose of using the program guide. In addition, Diehl is directed to simplifying programming of a VCR by allowing for impulse programming while viewing advertisements. Diehl does not teach or suggest implementing the programming feature within a program guide menu. Incorporating Diehl's programming into the context of Lawler's program guide would only further complicate a user's efforts in impulse programming, contra to Diehl's stated purpose of simplification, since the user would first be required to perform the step of entering the program guide before programming. Thus, such a modification would also render Diehl unsatisfactory for its intended purpose. Therefore, the Examiner's proposed combination would require each reference to be improperly modified.

Since no teaching in the prior art suggests the combination or provides a reasonable expectation of success that the combination will work as asserted, it appears that the Examiner has impermissibly relied upon Appellant's own teachings in arriving at a conclusion of obviousness. Therefore, the teachings of the references are not sufficient to render the claims *prima facie* obvious.

Further, neither the references or the combination teach or suggest presenting a menu in response to a signal generated by a viewer during broadcast of an advertisement, as claimed. As discussed above, Lawler discloses setting a reminder through a program guide, not during broadcast of an advertisement. Furthermore, Lawler's program guide is

not generated in response to a signal generated by a viewer during an advertisement. Diehl discloses impulse programming during advertisements, but does not teach or suggest presenting a menu as claimed. Cragun also does not teach or suggest a signal generated by a viewer during broadcast of an advertisement. Additionally, neither the references or the combination teach or suggest a menu selection signal generated in response to the first notification, as claimed by Appellant. Therefore, the combination fails to teach or suggest each and every element of Appellant's invention as claimed.

Because there is no suggestion or motivation for the combination of Lawler, Diehl and Cragun, and also because the combination fails to teach or suggest each and every element of Appellant's invention as claimed in claim 11, the rejection of claims 11-18, 21-32, 36, 37, 43-48, 50-52 and 58-60 under 35 U.S.C. § 103(a) over the combination should be withdrawn.

B. Claims 49 and 57 are patentable under 35 U.S.C. § 103(a) over Lawler in view of Diehl, Cragun and Hendricks.

Claims 49 and 57 stand or fall together. Claim 49 is the representative claim.

Hendricks discloses a program catalog service which presents a user with a submenu showing schedules of programs. After a user selects a program from the menu, a VCR is automatically activated to record the selected program.

Appellant submits that the further combination of Lawler, Diehl, Cragun and Hendricks cannot render Appellant's invention obvious because the base combination of Lawler, Diehl and Cragun, is improper. Because the base combination is improper, Hendricks must provide a proper motivation for the base combination, as well as the further combination. However, Hendricks does not teach or suggest the claimed limitations that are missing from the base combination. Therefore, the combination of Lawler, Diehl, Cragun and Hendricks cannot render claim 49 obvious. Accordingly, the rejection of claims 49 and 57 under 35 U.S.C. § 103(a) over the combination should be withdrawn.

### VIII. CONCLUSION

For the reasons stated above, claims 11-18, 21-32, 36, 37, 43-48, 50-52 and 58-60 are patentable under 35 U.S.C. § 103(a) over Lawler in view of Diehl and Cragun, and claims 49 and 57 are patentable under 35 U.S.C. § 103(a) over Lawler in view of Diehl, Cragun and Hendricks. Appellant requests that the Board reverse the rejections of claims 11-18, 21-32, 36, 37, 43-52 and 57-60 under 35 U.S.C. § 103(a) and direct the Examiner to enter a Notice of Allowance for Claims 11-18, 21-32, 36, 37, 43-52 and 57-60.

#### **Fee for Filing a Brief in Support of Appeal**

Enclosed is a check in the amount of \$500.00 to cover the fee for filing a brief in support of an appeal as required under 37 C.F.R. § 1.17(c) and 41.20(b)(2).

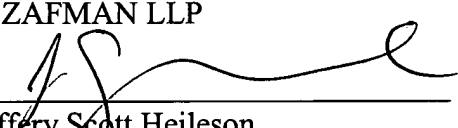
#### **Deposit Account Authorization**

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Appellant hereby requests such extension.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR  
& ZAFMAN LLP

Dated: 1/10/05

  
\_\_\_\_\_  
Jeffery Scott Heilesen  
Attorney for Appellant  
Registration No. 46,765

Customer No. 008791  
12400 Wilshire Boulevard  
Seventh Floor  
Los Angeles, CA 90025-1026  
(408) 720-8300



Atty Docket No. 080398.P158

*Patent*

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:	) Examiner: Lonsberry, Hunter B.
	)
Proehl, et al.	) Art Unit: 2611
	)
Serial No. 09/218,119	)
	)
Filed: December 21, 1998	)
	)
For: METHOD AND APPRATUS	)
FOR NOTIFICATION ON A	)
BROADCAST DEVICE	)
_____	)

Mail Stop Appeal Brief- Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**APPENDIX A FOR APPEAL BRIEF UNDER 37 C.F.R. § 41.37(A)**

1-10. (Cancelled)

11. (Previously Presented) A method for execution by a processor system local to a viewer to alert the viewer of a program, said method comprising:

receiving a first signal generated by a viewer during a broadcast of an advertisement of an upcoming program;

issuing a first notification in response to said first signal, said first notification presenting a menu to the viewer, the menu comprising indications of viewer interest and disinterest in viewing the broadcast of the program;

receiving a second signal indicating viewer menu selection, the second signal being generated by the viewer responding to the first notification;

retrieving program information in response to the received second signal indicating viewer interest;  
storing the program information in the processor system local to the viewer; and  
at approximately time of broadcast of the program, issuing a second notification to notify the viewer of the broadcast of the program.

12. (Previously Presented) The method as set forth in claim 11, further comprising switching a broadcast receiver to tune to the program when the viewer selects to view the program in response to the second notification.

13. (Previously Presented) The method as set forth in claim 11, wherein issuing a second notification comprises displaying on a viewing device the second notification.

14. (Previously Presented) The method as set forth in claim 11, wherein issuing a second notification comprises issuing the second notification that includes a program selector to enable the viewer to select to view the program.

15. (Original) The method as set forth in claim 14, wherein the program selector comprises a button.

16. (Previously Presented) The method as set forth in claim 13, wherein the second notification includes a button enabling the viewer to select to view the program, said method further comprising switching a broadcast receiver to tune to the program when the viewer selects the button.

17. (Original) The method as set forth in claim 11, wherein the time at which the second notification is issued is derived from program information retrieved.

18. (Previously Presented) The method as set forth in claim 11, wherein the first notification includes a button enabling the viewer to indicate interest.



19-20. (Cancelled)

21. (Previously Presented) An apparatus local to a viewer comprising:

- a first receiver configured to receive broadcast signals;
- a second receiver configured to receive at least one control signal;
- a controller coupled to the first receiver and second receiver, said controller configured to retrieve program information in response to receipt of the control signal indicating viewer interest, store the program information local to the viewer, and issue, at approximately a time of broadcast, a notification to the viewer of the broadcast of the program, the controller further configured to receive a first signal generated by a user during broadcast of an advertisement of the program, and generate a second notification in response to receiving the first signal, the second notification presenting a menu to the viewer, the menu comprising indications of viewer interest and disinterest in viewing the broadcast of the program, wherein said control signal is generated by the viewer responding to the second notification and indicates viewer menu selection.

22. (Original) The apparatus as set forth in claim 21, wherein the second notification comprises a notification window superposed over the advertisement broadcast.

23. (Previously Presented) The apparatus as set forth in claim 21, wherein the viewer indicates interest in the program by selection of a button located in the notification window, wherein the control signal is generated in response to the viewer indicating interest.

24. (Previously Presented) The apparatus as set forth in claim 21, wherein the notification includes a button enabling the viewer to select to view the program, said controller further configured to control to switch a broadcast receiver to tune to the program when the viewer selects the button.

25. (Previously Presented) The apparatus as set forth in claim 21, wherein the second receiver is further configured to tune to the program when the viewer selects to view the program in response to the notification.
26. (Previously Presented) The apparatus as set forth in claim 21, further comprising a viewing device, said notification displayed on the viewing device.
27. (Previously Presented) The apparatus as set forth in claim 21, wherein the notification comprises further comprises a program selector to enable the viewer to select to view the program.
28. (Original) The apparatus as set forth in claim 27, wherein the program selector comprises a button.
29. (Original) The apparatus as set forth in claim 26, wherein the notification includes a button enabling the viewer to select to view the program, second receiver tuning to the program when the viewer selects the button.
30. (Original) The apparatus as set forth in claim 27, wherein the time at which the notification is issued is derived from program information retrieved.
31. (Previously Presented) The apparatus as set forth in claim 21, further comprising an electronic program guide, said user interest indicated by reference to the electronic program guide.
32. (Previously Presented) The apparatus as set forth in claim 21, further comprising a calendar identifying at least one program of interest to the viewer.
- 33-35. (Cancelled)

36. (Previously Presented) A computer readable medium containing executable instructions which, when executed in a processing system local to a viewer, causes the processing system to perform operations for alerting a viewer of a program comprising:

- receiving a first signal generated by a viewer during a broadcast of an advertisement of an upcoming program;

- issuing a first notification in response to the first signal, said first notification presenting a menu to the viewer, the menu comprising indications of viewer interest and disinterest in viewing the broadcast of the program;

- receiving a second signal indicating viewer menu selection, the second signal being generated by the viewer responding to the first notification;

- retrieving program information in response to the received second signal indicating viewer interest;

- storing the program information local to the viewer; and

- at approximately time of broadcast of the program, issuing a second notification to notify the viewer of the broadcast of the program.

37. (Original) The computer readable medium set forth in claim 36, further comprising instructions, which when executed, switch a broadcast receiver to tune to the program when the viewer selects to view the program in response to the second notification.

38-42. (Cancelled)

43. (Previously Presented) The method as set forth in claim 11, wherein the first notification includes a program selector enabling the viewer to select to record the program.

44. (Previously Presented) The method as set forth in claim 11, wherein the second notification includes a program selector enabling the viewer to select to record the program.

45. (Previously Presented) The method as set forth in claim 11, further comprising recording the program when the viewer selects to record the program in response to the second notification.

46. (Previously Presented) The method as set forth in claim 11, wherein the processor system is a computing system that controls a display.

47. (Previously Presented) The method as set forth in claim 11, wherein the processor system is a handheld device.

48. (Previously Presented) The method as set forth in claim 47, wherein the handheld device is selected from a group consisting of a phone, a personal data assistant (PDA), and a remote control.

49. (Previously Presented) The apparatus as set forth in claim 21, wherein the notification includes a button enabling the viewer to select to record the program, the controller further configured to record the program when the view selects the button.

50. (Previously Presented) The apparatus as set forth in claim 21, wherein the controller is a computing system that controls a display.

51. (Previously Presented) The apparatus as set forth in claim 21, wherein the controller is a handheld device.

52. (Previously Presented) The apparatus as set forth in claim 51, wherein the handheld device is selected from a group consisting of a phone, a personal data assistant (PDA), and a remote control.

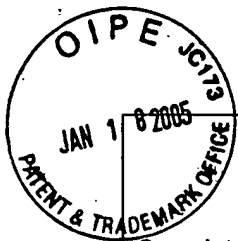
53-56. (Cancelled)

57. (Previously Presented) The computer readable medium as set forth in claim 36 further comprising instructions which, when executed, record a program when the viewer selects to record the program in response to the second notification.

58. (Previously Presented) The computer readable medium as set forth in claim 36, wherein the processing system is a computing system that controls a display.

59. (Previously Presented) The computer readable medium as set forth in claim 36, wherein the processing system is a handheld device.

60. (Previously Presented) The computer readable medium as set forth in claim 59, wherein the handheld device is selected from a group consisting of a phone, a personal data assistant (PDA), and a remote control.

**FEE TRANSMITTAL FOR FY 2005**

Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

**TOTAL AMOUNT OF PAYMENT (\$)** 500.00

Complete if Known:

Application No. 09/218,119  
Filing Date 12/21/98  
First Named Inventor Proehl  
Examiner Name Lonsberry, H.  
Art Unit 2611  
Attorney Docket No. 80398.P158

Applicant claims small entity status. See 37 CFR 1.27.

**METHOD OF PAYMENT** (check all that apply)☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify)**Deposit Account**Deposit Account Number : 02-2666

Deposit Account Name: \_\_\_\_\_

☒ The Director is Authorized to do the following with respect to the above-identified Deposit Account:

Charge fee(s) indicated below.

☒ Charge any additional fee(s) or underpayment of fee(s) during the pendency of this application.

Charge fee(s) indicated below except for the filing fee

☒ Credit any overpayments.☒ Any concurrent or future reply that requires a petition for extension of time should be treated as incorporating an appropriate petition for extension of time and all required fees should be charged.

Warning: Information on this form may become public. Credit card information should not be included on this form.  
Provide credit card information and authorization on PTO-2038.

**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Large Entity		Small Entity		Fee Description		Fees Paid (\$)
Code	Fee (\$)	Code	Fee (\$)			
1011	300	2011	150	Utility application filing fee	} 1,000/500	_____
1111	500	2111	250	Utility search fee		_____
1311	200	2311	100	Utility examination fee		_____
1012	200	2012	100	Design application filing fee	} 430/215	_____
1112	100	2112	50	Design search fee		_____
1312	130	2312	65	Design examination fee		_____
1013	200	2013	100	Plant filing fee	} 660/330	_____
1113	300	2113	150	Plant search fee		_____
1313	160	2313	80	Plant examination fee		_____
1004	300	2004	150	Reissue filing fee	} 1,400/700	_____
1114	500	2114	250	Reissue search fee		_____
1314	600	2314	300	Reissue examination fee		_____
1005	200	2005	100	Provisional application filing fee		_____
SUBTOTAL (1) \$						<u>0</u>

**2. EXCESS CLAIM FEES**

	<u>Extra Claims</u>	<u>Fee from below</u>	<u>Fees Paid (\$)</u>
Total Claims _____ – 20 or HP = _____		X _____	= _____
HP = highest number of total claims paid for, if greater than 20			
Independent Claims _____ – 3 or HP = _____		X _____	= _____
HP = highest number of independent claims paid for, if greater than 3			
Multiple Dependent Claims _____		_____	= _____

<u>Large Entity</u>		<u>Small Entity</u>		<u>Fee Description</u>
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	50	2202	25	Each claim over 20
1201	200	2201	100	Each independent claim over 3
1203	360	2203	180	Multiple dependent claims, if not paid
1204	200	2204	100	Reissue: each claim over 20 and more than in the original patent
1205	50	2205	25	Reissue: each independent claim more than in the original patent

SUBTOTAL (2) \$ 0**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each add'l 50 or fraction thereof</u>	<u>Fee from below</u>	<u>Fees paid (\$)</u>
_____	– 100 = _____	/ 50 = _____ (round up to whole number)	X _____	_____

<u>Large Entity</u>		<u>Small Entity</u>		<u>Fee Description</u>
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1081	250	2081	125	Utility
1082	250	2082	125	Design
1083	250	2083	125	Plant
1084	250	2084	125	Reissue

SUBTOTAL (3) \$ 0

**FEE CALCULATION (continued)****4. OTHER FEE(S)**

				<b>Fees Paid (\$)</b>	
Non-English Specification, \$130 fee (no small entity discount)					
<u>Large Entity</u>		<u>Small Entity</u>			
Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1813	8,800	1813	8,800	Request for inter parties reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1,020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1,080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Filing a brief in support of an appeal	500.00
1403	1,000	2403	500	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	500	2452	250	Petition to revive - unavoidable	
1453	1,500	2453	750	Petition to revive - unintentional	
1501	1,400	2501	700	Utility issue fee (or reissue)	
1502	800	2502	400	Design issue fee	
1503	1100	2503	550	Plant issue fee	
1462	400	1462	400	Petitions to the Commissioner (CFR 1.17(f) Group I)	
1463	200	1463	200	Petitions to the Commissioner (CFR 1.17(g) Group II)	
1464	130	1464	130	Petitions to the Commissioner (CFR 1.17(h) Group III)	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	For filing a submission after final rejection (see 37 CFR 1.129(a))	
1814	130	2814	65	Statutory Disclaimer	
1810	790	2810	395	For each additional invention to be examined (see 37 CFR 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
1504	300	1504	300	Publication fee for early, voluntary, or normal pub.	
1505	300	1505	300	Publication fee for republication	
1803	130	1803	130	Request for voluntary publication or republication	
1808	130	1808	130	Processing fee under 37 CFR 1.17(i) (except provisionals)	
1454	1,370	1454	1,370	Acceptance of unintentionally delayed claim for priority	
Other fee (specify) _____					
Other fee (specify) _____					

**SUBTOTAL (4) \$ 500.00**

\*Reduced by Basic Filing Fee Paid

**SUBMITTED BY:**Typed or Printed Name: Jeffery Scott HeilesonSignature: Date: 1/14/05Reg. Number: 46,765Telephone Number: 408-720-8300

Send to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450



**FEE TRANSMITTAL FOR FY 2005**

Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

**TOTAL AMOUNT OF PAYMENT (\$)** 500.00

Complete if Known:

Application No. 09/218,119  
Filing Date 12/21/98  
First Named Inventor Proehl  
Examiner Name Lonsberry, H.  
Art Unit 2611  
Attorney Docket No. 80398.P158

Applicant claims small entity status. See 37 CFR 1.27.

**METHOD OF PAYMENT** (check all that apply)☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify)☐ Deposit AccountDeposit Account Number : 02-2666

Deposit Account Name: \_\_\_\_\_

☒ The Director is Authorized to do the following with respect to the above-identified Deposit Account:

Charge fee(s) indicated below.

☒ Charge any additional fee(s) or underpayment of fee(s) during the pendency of this application.☐ Charge fee(s) indicated below except for the filing fee☒ Credit any overpayments.☒ Any concurrent or future reply that requires a petition for extension of time should be treated as incorporating an appropriate petition for extension of time and all required fees should be charged.

Warning: Information on this form may become public. Credit card information should not be included on this form.  
Provide credit card information and authorization on PTO-2038.

**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Large Entity		Small Entity		Fee Description		Fees Paid (\$)
Code	Fee (\$)	Code	Fee (\$)			
1011	300	2011	150	Utility application filing fee	} 1,000/500	_____
1111	500	2111	250	Utility search fee		_____
1311	200	2311	100	Utility examination fee		_____
1012	200	2012	100	Design application filing fee	} 430/215	_____
1112	100	2112	50	Design search fee		_____
1312	130	2312	65	Design examination fee		_____
1013	200	2013	100	Plant filing fee	} 660/330	_____
1113	300	2113	150	Plant search fee		_____
1313	160	2313	80	Plant examination fee		_____
1004	300	2004	150	Reissue filing fee	} 1,400/700	_____
1114	500	2114	250	Reissue search fee		_____
1314	600	2314	300	Reissue examination fee		_____
1005	200	2005	100	Provisional application filing fee		_____
SUBTOTAL (1) \$						<u>0</u>

**2. EXCESS CLAIM FEES**

	<u>Extra Claims</u>	<u>Fee from</u> <u>below</u>	<u>Fees Paid (\$)</u>
<b>Total Claims</b> _____ <b>– 20 or HP =</b> _____		X _____	= _____
HP = highest number of total claims paid for, if greater than 20			
<b>Independent Claims</b> _____ <b>– 3 or HP =</b> _____		X _____	= _____
HP = highest number of independent claims paid for, if greater than 3			
<b>Multiple Dependent Claims</b> _____		_____	= _____

<u>Large Entity</u>		<u>Small Entity</u>		
Fee	Fee	Fee	Fee	
Code	(\$)	Code	(\$)	<u>Fee Description</u>
1202	50	2202	25	Each claim over 20
1201	200	2201	100	Each independent claim over 3
1203	360	2203	180	Multiple dependent claims, if not paid
1204	200	2204	100	Reissue: each claim over 20 and more than in the original patent
1205	50	2205	25	Reissue: each independent claim more than in the original patent

SUBTOTAL (2) \$ 0**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>		<u>Extra Sheets</u>	<u>Number of each add'l</u> <u>50 or fraction thereof</u>	<u>Fee from</u> <u>below</u>	<u>Fees paid (\$)</u>
_____	– 100 =	_____	/ 50 = _____ (round up to whole number)	X _____	_____

<u>Large Entity</u>		<u>Small Entity</u>		
Fee	Fee	Fee	Fee	
Code	(\$)	Code	(\$)	<u>Fee Description</u>
1081	250	2081	125	Utility
1082	250	2082	125	Design
1083	250	2083	125	Plant
1084	250	2084	125	Reissue

**Application size fee for each additional group of 50 sheets beyond initial 100 sheets (count spec & drawings except sequences & program listings):**

SUBTOTAL (3) \$ 0

**FEE CALCULATION (continued)****4. OTHER FEE(S)**

				<b>Fees Paid (\$)</b>	
Non-English Specification, \$130 fee (no small entity discount)					
<u>Large Entity</u>		<u>Small Entity</u>			
Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1813	8,800	1813	8,800	Request for inter parties reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1,020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1,080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Filing a brief in support of an appeal	500.00
1403	1,000	2403	500	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	500	2452	250	Petition to revive - unavoidable	
1453	1,500	2453	750	Petition to revive - unintentional	
1501	1,400	2501	700	Utility issue fee (or reissue)	
1502	800	2502	400	Design issue fee	
1503	1100	2503	550	Plant issue fee	
1462	400	1462	400	Petitions to the Commissioner (CFR 1.17(f) Group I)	
1463	200	1463	200	Petitions to the Commissioner (CFR 1.17(g) Group II)	
1464	130	1464	130	Petitions to the Commissioner (CFR 1.17(h) Group III)	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	For filing a submission after final rejection (see 37 CFR 1.129(a))	
1814	130	2814	65	Statutory Disclaimer	
1810	790	2810	395	For each additional invention to be examined (see 37 CFR 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
1504	300	1504	300	Publication fee for early, voluntary, or normal pub.	
1505	300	1505	300	Publication fee for republication	
1803	130	1803	130	Request for voluntary publication or republication	
1808	130	1808	130	Processing fee under 37 CFR 1.17(i) (except provisionals)	
1454	1,370	1454	1,370	Acceptance of unintentionally delayed claim for priority	
Other fee (specify) _____					
Other fee (specify) _____					
				<b>SUBTOTAL (4)</b>	<b>\$ 500.00</b>

\*Reduced by Basic Filing Fee Paid

**SUBMITTED BY:**Typed or Printed Name: Jeffery Scott HeilesonSignature: Date: 1/10/05Reg. Number: 46,765Telephone Number: 408-720-8300

Send to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450